May 18, 2023

House Ways and Means Committee Hearing on Health Care Price Transparency

On Tuesday (May 16), the House Ways and Means Committee held a hearing entitled "Health Care Price Transparency: A Patient's Right to Know," aimed at examining how a lack of transparency in America's health care system increases costs and prevents patients from being effective health care shoppers. Witnesses included employer, provider, government, health technology and think tank representatives.

During the hearing, there was some bipartisan agreement on the need to increase transparency and ensure compliance with recent transparency regulations, however there was a fundamental disagreement on the way forward and the limitations to these efforts. Chairman Jason Smith (R-MO) and several other Republicans, for example, extolled the virtue of reforms including expanding tax-advantage health accounts, which they said combined with transparency can help families plan and better direct their dollars in a way that suits their needs. On the other hand, Ranking Member Richard Neal (D-MA) said that putting the burden on the patient to "shop" for medical care when a lot of care is not shoppable and many are unable to afford or save for care is not helpful in addressing the root causes of high prices and only exacerbates inequities.

Witnesses discussed various payment and care delivery models aimed at injecting transparency and reducing administrative burden and complexity to drive down prices and improve access to care. This included models such as Direct Primary Care (DPC), transparent health plans like Sidecar Health, and all-inclusive and transparently priced surgical centers. Other panelists discussed how transparency efforts including access to cost, claims and quality data can be leveraged to drive patients to lower-priced and higher-quality providers, cautioning that much work remains including improving data accuracy and utility. The Democratic witness, however, spoke about the limitations to price transparency and fundamental flaws in our system, noting that health care entities are favored by non-market-driven opportunities and advocating for an all-payer approach and other fundamental changes to the system, in addition to improved transparency on cost and outcomes.

- *For more information*: https://waysandmeans.house.gov/event/full-committee-hearing-on-health-care-price-transparency-a-patients-right-to-know/

Opening statements

Committee Chairman Jason Smith (R-MO): Chair Smith said that "without greater price transparency, patients are in the passenger seat of their health care decisions. We want them to drive it." He spoke about the Trump administration's efforts to advance price transparency and that this administration has yet to implement the advanced explanation of benefits (AEOB) program, noting a bipartisan goal of protecting patients. He spoke about the importance of price transparency compliance efforts and lack of information on non-compliance reviews and enforcement from CMS. He said that "health care price transparency is crucial, but other reforms will also ensure patients can get better value for their dollars in health care… For example, tax-advantaged health accounts, such

as Health Savings Accounts, allow patients to better save for medical expenses. When combined with true up-front knowledge of prices, this can be a powerful tool for families to plan and budget… [yet] outdated red tape prevents certain innovative health care delivery options for patients and employers using HSAs." Full statement.

Committee Ranking Member Richard Neal (D-MA): Ranking Member Neal said that Democrats "transformed American health care with the Affordable Care Act (ACA)," noting higher rates of health coverage, including those with pre-existing conditions, as well as recent efforts to ensure enhanced subsidies and historic enrollment efforts. "Meanwhile, Republicans have doubled down on gutting the system, proposing draconian cuts, and stripping Americans of the coverage they rely on… Today, they are going to promote transparency along with health savings accounts and high-deductible health plans to promote consumer shopping as a way to lower health costs. But pushing even more burden onto consumers and expecting them to navigate red tape at a time of vulnerability only tilts the field against patients and will result in even more medical debt." He said that transparency, shopping, and "the magic of the market" will not "fundamentally address coverage gaps, medical debt and cost burden, or health inequity." Full statement.

Witness Testimony

Ms. Kendy Troiano, Human Resources Director, Clark Grave Vault Company: Ms. Troiano discussed her role managing human resources and employee benefits and how her company faced a 35% increase in premiums, which "was not feasible for us or for the employees." She said they decided to switch from a traditional health plan to a new kind of health insurance called Sidecar Health "because their model is designed to give consumers control over cost and choice. Their plan allows us the freedom to choose any licensed provider who accepts cash or credit card because we are not constrained by networks, formularies or prior authorization. We are provided a 'budget,' or Benefit Amount, for any medical need, and allows us to choose a provider based on that budget." She discussed how in addition to savings for the company, employees also see savings at the provider's office and love the coverage options. Full testimony.

Dr. Ron Piniecki, Co-Founder and Medical Director, Wellbridge Surgical: Dr. Piniecki said that as an anesthesiologist, he realized that "while my training had well-equipped me for the complexities of practicing medicine, it provided no preparation for the business of medicine." He said that he began his own journey to gaining a better understanding of how the system works, which led him to the creation of his company, Wellbridge Surgical. "The goal with Wellbridge, was to approach the delivery of care from the approach that has been utilized for decades across other fields and industries. First, determine the need: transparent priced surgical procedures that are all-inclusive with higher quality experience and outcomes and lower price. Second, provide that service to all patients without price discrimination based on the presence or absence of insurance or payment methods." He discussed how this care model solves multiple problems including accessibility, escalating costs, being an active participant in your own health care, and gross disparities across demographics. Full testimony.

Dr. Christopher M. Whaley, Ph.D., Professor, RAND Pardee Graduate School; Health Economist at the RAND Corporation: Dr. Whaley discussed research findings from RAND that focus on health care price transparency and the evolving structure of health care markets and the impacts of those changes on quality and spending. He discussed how health care price variation occurs in both the commercial and Medicare markets how "price variation and site-of-care payment differentials create an 'arbitrage opportunity' that drives provider

consolidation… substantially increasing revenues to the provider organization and increasing health care spending." He said to address wide variation in prices there first must be price transparency, giving examples of how the data can be leveraged to drive patients to lower-priced and higher-quality providers. "Significant progress has been made to increase the transparency of health care prices at the federal and state levels, but much more needs to be done to leverage these data as a powerful tool in controlling growth in health care spending." Full testimony.

Mr. Bill Kampine, Co-Founder and Chief Innovation Officer, Healthcare Bluebook: Mr. Kampine spoke about his experience as at Healthcare Bluebook, serving over 7,000 employer clients with transparency tools. "Hidden price and quality variability have a significant impact on both patient outcomes and affordability. When patients don't understand what care should cost or lack the ability to compare providers, they frequently overpay for common healthcare services by as much as 1000%. When patients don't have access to outcomes-based quality information, they choose poor performing doctors or facilities, increasing their risk of complications, readmission and death." He said that if consumers were to select better value in-network providers for shoppable services, consumers and plan sponsors can save 50% of costs on services accounting for 40% of spend." He said that while we are still in the early stages of implementation of price transparency efforts, additive efforts should consider policies that address pharmacy data requirements, support for quality measurement initiatives, data consistency, provider consolidation, anti-steering and anti-tiering clauses, and employer access to claims data. Full testimony.

Mr. William Short, Executive Chairman, Ameriflex: Mr. Short spoke about the need to address payment inefficiencies in the health care system, increase access to primary care providers to promote preventive health care and reduce overall costs, empower patients to take an active interest in their health care, and align stakeholders for proactive patient care. "Data consistently supports the effectiveness of Direct Primary Care in improving patient access, reducing costs, and enhancing patient satisfaction." He said that the direct approach allows for "more personalized and comprehensive care" that have been shown to result in "improved health outcomes, reduced hospitalizations, and lower health care costs." He spoke about the need to align payment incentives between providers and patients and embrace alternative payment models. Mr. Short also spoke about removing barriers to pre-tax resources like Health Savings Accounts (HSAs), Flexible Spending Accounts (FSAs), and Health Reimbursement Accounts (HRAs) to empower patients to take control of their health care expenditures and allow flexible tools and promote savings. Full testimony.

Dr. Rick Gilfillan, MD, Former CMMI Director and former CEO of Trinity Health: Dr. Griffin spoke about his experience as a physician, hospital and health system executive and Director of the CMS Innovation Center. He said "I believe we should be as transparent as possible with patients, and with each other, about the quality and high cost of health care services. To evaluate solutions, we also need to be transparent about the root causes of these realities." He said it is "quite ironic that in a healthcare system where virtually every other actor is favored by non-market-based opportunities, we want patients and their families to shoulder the burden of decreasing healthcare costs by 'shopping' or 'having skin in the game.'" He discussed the relative ineffectiveness of our health care system that seems "more driven by the pursuit of wealth for institutions than health for communities" and offered several principles for the way forward. These include comprehensive health insurance, eliminating overpayments in government programs, creating an all-payer payment system and public option, directing savings to address social determinants of health, and continued transparency efforts on cost and outcomes. Full testimony.

Q&A

Committee Chair Jason Smith (R-MO) asked about compliance with hospital price transparency requirements, and Dr. Whaley said that their research shows only about 25% are compliant. He asked Mr. Short how price transparency efforts will enhance the benefits of HSAs, to which he said it will make patients even more powerful consumers beyond just those items covered by insurance. Ms. Troiano said that price transparency has allowed her company to drive savings to employees and Dr. Piniecki said that patients really appreciate knowing exactly what they will pay for care when they choose to have a surgery there. Mr. Kampine said that the current price transparency rules are still messy, and that hospital compliance is an issue, adding there should be transparency across other providers sites and that carrier files should be checked by looking as what is reported versus what is paid out.

Ranking Member Richard Neal (D-MA) noted his concern about the inability for certain low-income individuals to save in an HSA and said some proposals might exacerbate inequities in the delivery of health care. Dr. Gilfillan said that thy system already includes a lot of fragmentation and cherry-picking of care driven by profit seeking and added that HSAs do not increase shopping behavior. He said we are trying to solve problems on the back of those who can least afford it and should focus on creating a health care financing administrative system that allows health professionals to be their best.

Rep. Vern Buchanan (R-FL) said that with $4.3 trillion in health care spend this year, what we are doing clearly isn't working. He said that a lot of the burden is being pushed to employees and asked Ms. Troiano about their costs. She said that they cover 86% of the premium and keep single insurance at $53, but family coverage has increased from $50 prior to 2013 to $450. When asked about what small and medium size businesses are paying, Mr. Piniecki said that once employers pass 100 employees in Indiana it benefits them to become self-insured, saying that employers typically pay 75% of the costs but added that huge savings can result from leveraging transparency to drive employees to higher-value care.

Rep. Lloyd Doggett (D-TX) said transparency cannot fix our system due in part to the lack of competition and monopolization that drives up prices. He said HSAs have serious limitations and that the majority of households cannot afford them but that they are a boon for those at the top of the economic ladder. When asked about overpayments to Medicare Advantage (MA) plans, Dr. Gilfillan said that there was an estimated $45 to $50 billion in overpayments this year and about a trillion in subsidization in the next eight years.

Rep. Adrian Smith (R-NE) said he hopes to work together to empower patients and help them avoid unnecessary costs, enabling them to budget and plan for their care. He noted his HSA bills, the Home Care for Seniors Act and the Telehealth Expansion Act and asked what additional actions Congress can take. Mr. Short said Direct Primary Care should be advanced as well as coupling price transparency with direct payment options.

Rep. Mike Thompson (D-CA) said transparency should also include clarity in billing and noted that if care is needed urgently, there is no time to shop. When asked about shopping and complicated administrative structures, Dr. Gilfillan said that administration accounts for 25% of what we spend for health care, adding that one drive is employer-sponsored health insurance because must-have providers can dictate their price. Regarding the discrepancy between hospital margins, he said that rural, critical access and safety-net hospitals are constantly on

edge of financial ruin and that we should adopt common pricing that enables all hospitals to receive adequate reimbursement.

Rep. Mike Kelly (R-PA) said that as a business owner, employees are profitable when they are working but said finding talent and keeping people healthy is difficult. When asked about a health care plan that makes sense, Ms. Troiano said transparency could help and that they train people to look for the best health care, noting that Sidecar is able to go in and find the prices to enable their employees to shop.

Rep. John Larson (D-CT) asked Dr. Gilfillan about his all-payer payment system proposal. Dr. Gilfillan said prices would be established similar to what is done by Medicare as opposed to letting the marketplace make these decisions, which drives up prices, and everyone would be paid according to a set fee structure. When asked about his suggestion to include more patient reported outcomes measures, he said that we tend to rely on vary narrow metrics that are not tied to patient experience and outcomes.

Rep. David Schweikert (R-AZ) said that the ACA was a financing bill, and they should discuss what we pay and not who pays it. When asked why the private market has rates around 300% higher, Dr. Whaley said differences in prices reflect negotiation power and a collapse in competition due to consolidation. He added that pricing is often linked to consolidation, noting hospital prices are nearly double in northern than southern California due to this dynamic, saying that CalPERS' reference-based pricing was looking to address this.

Rep. Earl Blumenauer (D-OR) noted serious structural problems, such as subsidizing diets that are making Americans sick, but said there are glimmers of hope where we can come together. He noted his bill with Rep. Smucker, the Primary Care Enhancement Act (H.R. 3029), would expand access to Direct Primary Care. He said that it removes overhead by allowing patients to pay by the month or year as opposed to the visit, and that is a tangible step forward in getting more value out of the system. Mr. Short said that DPC aligns incentives so that health care providers are incentivized to keep people healthy, not treat sick patients, and reduces overhead costs.

Rep. Brad Wenstrup (R-OH) said he is in favor of DPC but noted it is harder for specialists and they need to figure out how to make that work better as well. He said that while they passed the No Surprises Act to inject transparency into the system, HHS has yet to issue regulations to carry out the provisions providing cost estimates to patients. When asked about their model, Dr. Piniecki said he would love to see more bundled pricing for surgical procedures and that the impetus is on physicians to push the facilities, adding that ultimately patients will benefit.

Rep. Bill Pascrell (D-NJ) said a new report indicated HSAs have become tax shelters. Dr. Gilfillan said if you have discretionary income to put in than you benefit and if you don't you can't benefit, saying the overall number of people with HSAs remains low and employers like high-deductible health plans (HDHPs) because it helps with cost containment. Rep. Pascrell then discussed a study finding that private equity ownership of nursing homes resulted in increased deaths and use of anti-psychotics, noting the need to address private equity's role in costs and quality.

Rep. Jodey Arrington (R-TX) said the system is failing patients and that while markets are the best way to deliver value if there is real competition, the system is not serving anyone well today. He said there is a need to shine some light and unleash market forces where we can, noting his Shop RX Act, which ensures that Medicare drug

plans offer real-time benefit information to seniors, was passed but not yet implemented by CMS. Dr. Whaley said we are likely to see much more engagement in drug price shopping than in other areas.

Rep. Danny Davis (D-IL) said we need to focus more on prevention and get into the business of reducing costs. Dr. Gilfillan said Accountable Care Organizations (ACOs) with capitated primary care are a great way to get providers involved in doing preventive work. He said we want them thinking wholistically about patient populations and how to keep them healthy, and we should hold providers responsible for improving outcomes and reducing costs.

Rep. Drew Ferguson (R-GA) asked a series of questions about the drivers of health care cost. Dr. Whaley said care is more expensive now and it's not primarily due to people being sicker. He also said that there is a link between income and utilization. Ms. Troiano said that all their employees have to see a primary care provider every year but that insurance companies typically dictate what lab work and tests need to be run.

Rep. Linda Sanchez (D-CA) said promoting "transparency" but claiming that patient choice will magically move needle is misguided. When asked if the average patient can identify high-value providers, Dr. Gilfillan said even he cannot do that and that the data we have today is poor in its ability to help us do this. He agreed that most services are not shoppable and that circumstances such as lack of transportation also limit choice.

Rep. Ron Estes (R-KS) said there is a link between price transparency and spending, noting that if it results in a 1% reduction in spending it could lead to a $4.8 billion reduction in costs over 10 years. Mr. Kampine said there are enormous differences in prices and outcomes, and we should reward using high-value care, adding that a significant amount of savings is on the table for employers. When asked what considerations will help critical access hospitals come into compliance with price transparency mandates without burdens, Dr. Whaley said it is not a resource problem but an enforcement problem, and many of those not in compliance are larger systems.

Rep. Carol Miller (R- WV) asked what the biggest issue is preventing the use of pricing data by patients. Dr. Whaley said price transparency is not magic wand and many don't shop for care, adding that most of the savings go to insurers and other times there is less choice, such as when you are referred by a primary care provider. When asked how to overcome issues in rural America, Dr. Whaley said we may have to look at a different payment models in areas where there is not room for enhanced competition. Dr. Piniecki said if provided information and tools, patients will be active consumers of their own care.

Rep. Brian Higgins (D-NY) asked about high-deductible health plans. Dr. Gilfillan said the uptake was driven by employers' decision to pass on costs to consumers due to their inability to manage costs, adding that cost-sharing results in avoidance of both necessary and unnecessary care. He said CMS is making great strides in improving the delivery of care.

Rep. Greg Murphy (R-NC) said health care is not a market economy because the government is involved, adding that costs have increased 129% since the passage of the ACA. He said costs are rising due to insurance companies, the growth of administration and burden, and way too much technology. One place costs have not risen, he said, are in physician pay. Dr. Gilfillan agreed that hospital CEOs should be paid close to what physicians make. Rep Murphy said we should get insurers and PBMs back to what they were intended to do.

Rep. David Kustoff (R-TN) asked Dr. Piniecki how he determines charges at his practice. He said that you can run up the bill easily in a fee-for-service system, but they take those numbers and look at what costs typically are and take the impetus off the patient to determine what variable pricing may be, such as if they end up having one polyp or three polyps. He said they take they liability on their shoulders so they can offer prices in a non-discretionary way.

Rep. Judy Chu (D-CA) said while there should be transparency, we should not be asking our families to shop when they are at their most vulnerable. Dr. Gilfillan agreed and said while it may be easy to shop for an MRI, what if a breast mass is discovered and what is the trade off in someone's mind around cost and quality. When asked about compliance with price transparency, Dr. Gilfillan said the industry is building capability and there is around 70% compliance with certain pieces but noted many third-party sites do not have accurate data.

Brian Fitzpatrick (R-PA) asked if requirements should be extended to other settings of care. Dr. Whaley said hospital care accounts for about 50% of spending and a natural extension would be to ambulatory surgical centers, outpatient physician offices and imaging centers.

Rep. Greg Steube (R-FL) discussed his own medical trauma and said there was no communication during his time in the hospital regarding costs, but he was met with a five-page bill afterwards. Dr. Piniecki said if everything were truly transparent, systems would police themselves and market outliers would correct.

Rep. Gwen Moore (D-WI) asked about Dr. Gilfillan's idea of an all-payer payment system. He said there would be one, standardized way to submit bills and pay based on rates for those services. When asked about the MA industry benefiting from government subsidies and if quality is better or worse, he said it costs 10-25% more while there is not good data on quality. He said it is the worst of government and business coming together to create unaffordable care. Regarding HSA accessibility to low-wage individuals, he said many do not have disposable income to put into an HSA. After her questioning, Chairman Smith said that 78% of individuals that use an HSA make under $100,000.

Claudia Tenney (R-NY) said that health care is not a functional free market, and it is not working in NY. When asked about savings in premiums, Ms. Troiano said they got one quote that was a 35% increase and Sidecar was only 10%. She said they also offer an FSA and 68% use that, adding that their employees are very good at shopping. When asked about Direct Primary Care, Mr. Short said that it reduces overhead and incentivizes to care about patient health and drive down costs.

Rep. Michelle Steel (R-CA) said hospital price transparency is not good enough and CMS is not holding hospitals accountable. She noted concern with the quality, consistency, and usefulness. Mr. Kampine said there is significant variability, and the data is very difficult to work with. Rep. Steel noted her support for the Telehealth Expansion Act, which would make permanent a waiver allowing individuals with an HSA to access telehealth before the deductible, in addition to supportive HSA improvements and Direct Primary Care. Mr. Short said it is important to maintain access to telehealth because lack of access could lead to more urgent care visits.

Rep. Dan Kildee (D-WI) said access to insulin is life or death and for them there is no shopping and that we can't expect transparency alone to reign in prices. He said they want to address prescription drug prices across the board but also to address costs of supplies and equipment for diabetics. Dr. Gilfillan said it is unconscionable that

pharmaceutical manufacturers were allowed to increase insulin costs and the same thing is true for other equipment and we should make the system accountable for delivering these services. Rep. Kildee said the cost of equipment is more than offset by reducing a single complication.

Rep. Lloyd Smucker (R-PA) discussed his work on advancing Direct Primary Care with Rep. Blumenauer, adding that it is helpful for business owners and is making a difference in people's lives. He said that patients like it because they know how much they will pay, employers like it because it helps employees stay healthy and reduces costs, and doctors like it because there is less paperwork. He said their bill is a small provision to fix a gap in the tax code to enable greater access to DPC. Mr. Short said DPC incentivizes providers to keep people healthy as opposed to the fee-for-service world, where they are incentivized to keep people sick. Rep. Smucker said DPC is not health insurance despite the IRS treatment. Mr. Short agreed it is a discrete set of services as opposed to insurance, which is global coverage.

Rep. Kevin Hern (R-OK) said the health care system is opaque and while price transparency was a good first step, many are still not compliant. He said he wants to address misconceptions around employer-sponsored insurance (ESI), noting that more than ½ of the country has ESI and that strengthening the employer market helps the sick and vulnerable. He added that out-of-pocket costs are significantly lower for ESI than ACA plans and said ESI and tax-advantage accounts deliver real savings.

Rep. Don Beyer (D-VA) said the absence of site neutrality contributed to consolidation and increased prices. When asked about all payer claims databases, Dr. Whaley said they are fantastic resources that he has a lot of confidence in, noting that some states do studies with the data and make data-driven decisions about their health care. Regarding the role of private equity (PE) in health care, Dr. Gilfillan said that one of largest PE firms recently filed for bankruptcy because Congress acted through the No Surprises Act to eliminate their business model of balance billing members. He said there is a short-term mentality that results in them buying and investing in health care as little as possible and getting out quickly, which can lead to lower quality and reductions in care.

Rep. Darin LaHood (R-IL) said they have an opportunity to come together to improve access, choice, and affordability. He said he led and supported legislation aimed at expanding use of HSAs and FSAs – the Dietary Supplement Tax Fairness Act and Personal Health Investment Today (PHIT) Act – allowing for more patient choice in how they pay for health care. When asked about the benefits of expanding tax advantaged accounts and price transparency, Mr. Short said it enables more optionality to individuals and employers.

Rep. Blake Moore (R-UT) said everything they try is a financing bill and costs continue to go up. He said while they understand health care is different, it doesn't mean they shouldn't try to improve it. Regarding lower costs for employees, Ms. Troiano said they like that there are no networks, no costs for prescriptions, and other benefits. When asked about employer savings, Dr. Piniecki said they were able to provide $50,000 in savings for one company a few days after talking with them just due to their colonoscopy rates. Mr. Kampine said they've made tremendous progress over the past decade and can continue to do so with new data.

Rep. Jimmy Panetta (D-CA) asked about the payer mix impact on certain hospitals and how to keep non-profit hospitals operational. Dr. Gilfillan said there is a system of reverse subsidization, and we should come up with an all-payer system. When asked about the PHIT Act, allowing qualified sports and fitness items to be purchased by

an HAS, Mr. Short said it is good to incentivize people to be active. Dr. Gilfillan – increasing market power means increased costs, mini-med markedly higher OOP.

Rep. Beth Van Duyne (R-TX) said patients have no sense of what they will pay but we can't just keep putting more federal dollars into health care.

If you have questions, please contact Heather Meade or Laura Dillon.

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